

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ELOISA MARQUEZ, RICHARD 1:15CV00787KBM LF
MARTINEZ, DESTINEY MARTINEZ
and ANDRELLITA MARTINEZ,

Plaintiffs,

vs.

OFFICER NICHOLAS LEVINE, in
his official capacity as a commissioned
law enforcement officer and individual
capacity, OFFICER RYAN KUEHL, in
his official capacity as a commissioned
law enforcement officer and individual
capacity, and the NEW MEXICO
STATE POLICE DEPARTMENT,

Defendants.

**PLAINTIFFS' REPLY TO DEFENDANTS MOTION FOR PROTECTIVE ORDER AND
REQUEST FOR PLAINTIFFS' PROTECTIVE ORDER**

COME NOW Plaintiffs, by and through their counsel of record, Pilar Tirado Murray, in
response to Defendants' Motion for Protective Order and respectfully respond as follows:

ARGUMENT

Defendants have moved for a Protective Order regarding the Personnel Files of Officers Levine
and Kuehl and Internal Affairs Review File Regarding Case No. 13-181250, documents which they
define as "privileged." Opposition to their Motion is solely limited to the scope of the Protective
Order sought. While Defendants seek to release only one (1) Internal Affairs Review File together with

the officers' respective personnel files, Plaintiffs seek to extend the protections of Defendants' proposed protective order to the release of all of Officer Levine's job-related medical and psychological records, *See, State v. Pohl*, 1976-NMCA-089, 89 NM 523, 554, 4 P.2d 98 (where officer was involved in two prior instances of alleged misconduct and "Defendant's guilt or innocence [hinged] on whether the jury believe[d] the arresting officer [was] the aggressor" there is a sufficient showing to provide inspection of police personnel records [including psychological history]"'), all of the named Defendants Internal Affairs Review files, all other complaints filed against the NMSP based on allegations of false arrest and any resulting investigations into their officers' conduct as well as reciprocal protections for the release of Plaintiffs' medical and psychological records.

Plaintiffs respectfully request that the Court grant Defendants' Motion for a Protective Order, properly amended to require the production of the additional documents identified above in the interest of justice and judicial deficiency to cover disclosure evidence material to this litigation and allow Plaintiff to properly prepare for trial as contemplated by Rule 26.

In the alternative, Plaintiffs request that the Court enter Plaintiff's proposed Motion for Protective Order, attached.

RESPECTFULLY,

Dated: November 17, 2015

/s/Pilar Tirado Murray

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